IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3569 of 1988

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHRIMATI S N RATHOD - Petitioner(s)

Versus

COLLECTOR & 4 - Respondent(s)

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Appearance :

MS KUSUM M SHAH for Petitioner(s) : 1,
GOVERNMENT PLEADER for Respondent(s) : 1 - 4.
None for Respondent(s) : 5,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 20/12/2005

ORAL JUDGMENT

1.In this petition under Article 226 of the Constitution of India, the petitioner has prayed for an appropriate writ, direction or order directing the respondents to renew the lease of the petitioner in respect of the

land bearing Survey No.452/453 of village Malana, District Banaskantha for the further period of 10 years from 4.1.1988.

2.It appears from the record that late Nathusing R. Rathod husband of the petitioner was granted the quarry lease for building-stone/Quartzite mineral in Survey No.452/453 of village Malana, Taluka Palanpur, District Banaskantha for admeasuring 8-33-66 hectre and the said lease-deed was executed on 5.1.1978 for the period of 10 years and the said quarry lease has been expired on 4.1.88 and therefore, the petitioner has applied for the renewal of the lease for the further period of 10 years on 3.10.87 and the said application came to be rejected by the respondents on the ground that the aforesaid two Survey Numbers i.e. Survey Nos.452/453 were declared as a forest land under Section 20 by the Notification dated 15.10.1959. Being aggrieved and dissatisfied with the same, the petitioner has preferred the present Special Civil Application under Article 226 of the Constitution of India.

3.It is required to be noted that in the present Special Civil Application the petitioner has prayed for an

appropriate writ, direction or order directing the respondents to renew the lease for the further period of 10 years from 4.1.1988 and as such by efflux of time the said prayer has become infructuous. Even otherwise, considering the affidavit-in-reply and considering the fact that Survey Nos.452/453 were declared as forest land and considering Section 2 of the Forest (Conservation) Act; 1980, the State Government can divert the land into forest land without the permission of the Central Government and if considering the same the application for renewal of the license of lease has been rejected, it cannot be said that the same is in any way illegal and/or arbitrary, which requires interference of this Court exercising powers under Article 226 of the Constitution of India. Under the circumstances and considering the affidavit-in-reply, there is no substance in the present Special Civil Application and the same is required to be dismissed.

4. For the reasons stated above, the petition fails. Rule is discharged, however, there will be no order as to costs.

(M.R.SHAH, J.)

kdc.